

**Introduced by Senator Machado**

February 22, 2005

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An act to amend Section 40600 of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 999, as amended, Machado. San Joaquin Unified Air Pollution Control District: district board membership.

(1) Existing law establishes the San Joaquin Valley Unified Air Pollution Control District formed by the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and consisting of the Counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and that portion of the County of Kern that is within the San Joaquin Valley Air Basin, as a single integrated agency with all staff under one centralized management structure that is able to implement programs on a basinwide basis. Existing law requires the district to be governed by a district board composed of a total of 11 voting members. Of those members, existing law requires 8 members to be appointed by each of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. *The remaining 3 members are appointed by cities within the territory of the district, based on region and population.*

This bill would increase the membership of the district board to ~~15~~ 17 members. ~~The bill would require 7 members to be appointed by each of the Counties of Fresno, Kern, Merced, San Joaquin, Stanislaus, and Tulare, and would require one member to be appointed by mutual consent between the Counties of Kings and Madera. In addition to the existing 8 county members, the bill would require the~~

*appointment of 2 city members by the cities within the territory of the district, based solely on population. The bill would require ~~5~~ 3 other city members to be appointed to the district board, and would require the City Council of Fresno to appoint 2 of those members, and by the City Councils of Fresno, Bakersfield, Modesto, and Stockton to each appoint one of those members, one member apiece. The bill would require ~~3~~ 4 public members to be appointed to the district board, and would establish a process for nominating and selecting those public members. The bill would require the district board to select the 3 public members in compliance with that process by April 30, 2006, and would provide an alternate means of selection of those public members if the district board does not select those members by that date as prescribed. The bill would require each member to be appointed in accordance with certain requirements, and would prohibit a member from designating an alternate for any purpose or otherwise being represented by another person in his or her capacity as a member of the district board. The bill would require each appointment by a board of supervisors or city council to be considered and acted on at a duly noticed, regularly scheduled hearing of the board of supervisors or city council. The bill would require all members to be residents of the district. Because of the additional duties this bill would require of the district, the bill would impose a state-mandated local program.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 40600 of the Health and Safety Code is
- 2 amended to read:
- 3 40600. (a) The San Joaquin Valley Unified Air Pollution
- 4 Control District formed by the Counties of Fresno, Kern, Kings,
- 5 Madera, Merced, San Joaquin, Stanislaus, and Tulare pursuant to
- 6 Chapter 3 (commencing with Section 40150), and consisting of

the Counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and that portion of the County of Kern that is within the San Joaquin Valley Air Basin, is a single integrated agency with all staff under one centralized management structure that is able to implement programs on a basinwide basis, and has all of the following:

(1) An individual air pollution control officer who is responsible for the issuance of all permits by the unified district.

(2) A single budget for the unified district with resources allocated based on the program needs of the San Joaquin Valley Air Basin.

(3) A uniform fee structure.

(4) Three hearing boards established pursuant to Section 40800. One hearing board shall serve the northern region, one shall serve the central region, and one shall serve the southern region, as defined by the unified district board. Identical policies governing the operation of each hearing board shall be established by the unified district board and shall be binding upon each hearing board.

(5) A citizen's advisory committee.

(b) Rules and regulations adopted by the San Joaquin Valley Unified Air Pollution Control District are binding on all counties within the unified district. The unified district shall enforce all permits issued by the unified district and all permits issued by the individual county districts prior to formation of the unified district. The unified district shall review, revise, adopt, and implement any air pollution control plans required within the San Joaquin Valley Air Basin by state and federal law.

(c) Notwithstanding any other provision of law, the San Joaquin Valley Unified Air Pollution Control District shall be governed by a district board composed of ~~15~~ 17 voting members, appointed as follows:

(1) ~~Seven~~ Eight members, one of whom shall be appointed by each of the Counties of Fresno, Kern, *Kings, Madera*, Merced, San Joaquin, Stanislaus, and Tulare. The board of supervisors of each of those counties shall, by majority vote, appoint one of its members to serve as a member of the district governing board. ~~One member shall be appointed by mutual consent between the Counties of Kings and Madera.~~

(2) Two city members appointed by the cities within the territory of the unified district. There shall not be more than one city member selected from one county. Of the two city members appointed pursuant to this paragraph, one shall be from a city having a population of less than 40,000, and one shall be from a city having a population of 40,000 or more that is not specifically authorized to appoint a member to the board under this section.

~~(2) Five~~

(3) Three city members appointed as follows:

(A) ~~Two~~ One appointed by the City Council of Fresno.

(B) One appointed by the City Council of Bakersfield.

~~(C) One appointed by the City Council of Modesto.~~

~~(D)~~

(C) One appointed by the City Council of Stockton.

~~(3) Three~~

(4) Four public members appointed as follows:

~~(A) The air pollution control officer of the district shall establish a calendar and procedures for appointing public members to the district board not later than February 1, 2006.~~

~~(B) Candidates for public members shall be residents of the district, have a demonstrated interest and knowledge of the impact of air pollution on the San Joaquin Air Basin, and have a demonstrated understanding of the needs of the general public in connection with air pollution problems in the San Joaquin Air Basin. Candidates shall be able to attend substantially all meetings of the district board, to discharge all duties and responsibilities of a district board member on a regular basis, and to actively participate in the affairs of the district. A candidate shall not be an employer or owner of a business or industry regulated by the district.~~

~~(C) Any of the following persons, groups, or entities may nominate up to three people each for consideration as a public member on the district board. Nominations shall include information regarding the qualifications of the nominee, and shall be sent to and compiled by the air pollution control officer of the district.~~

~~(i) Public health officers of local agencies in the district.~~

~~(ii) The American Lung Association, or its affiliate or subsidiary in the district.~~

~~(iii) The California Medical Association.~~

1     ~~(iv) Any medical society in the district that is a bona fide~~  
2     ~~professional society of individuals in the medical or nursing~~  
3     ~~profession.~~

4     ~~(v) Any health center located in the district that serves the~~  
5     ~~Latino population in the district.~~

6     ~~(vi) The Union of Concerned Scientists, or any of its affiliate~~  
7     ~~or subsidiary organizations based in the district.~~

8     ~~(vii) Any bona fide environmental health or respiratory health~~  
9     ~~nonprofit organization with a demonstrated interest in public~~  
10    ~~health issues in the district that is in existence on January 1,~~  
11    ~~2006.~~

12    ~~(viii) The Latino Issues Forum.~~

13    ~~(ix) The Fresno Native American Health Center.~~

14    ~~(x) The Governor.~~

15    ~~(xi) The Senate Committee on Rules.~~

16    ~~(xii) The Speaker of the Assembly.~~

17    ~~(D) The final list of candidates and qualifications shall be~~  
18    ~~available for public review. The list shall include each~~  
19    ~~candidate's name, mailing address, profession, and career~~  
20    ~~experience.~~

21    ~~(E) The district board shall appoint a public member selection~~  
22    ~~subcommittee comprised of members of the district board to~~  
23    ~~review and rank candidates. The subcommittee shall report to the~~  
24    ~~district board during a public meeting in open session regarding~~  
25    ~~their review and ranking of the candidates, including, but not~~  
26    ~~limited to, the specific criteria used for that ranking.~~

27    ~~(F) The district board shall select three public members from~~  
28    ~~the list of candidates by April 30, 2006. Of those three public~~  
29    ~~members, the district board shall select at least one public~~  
30    ~~member that is a physician with expertise in the effects of air~~  
31    ~~pollution on respiratory health. The district board shall not select~~  
32    ~~more than one public member from the list of people nominated~~  
33    ~~by any single person, group, or entity pursuant to subparagraph~~  
34    ~~(C). The district board shall set terms of office for each of the~~  
35    ~~members, to be not less than two years and not more than four~~  
36    ~~years. If the district board fails to select public members and set~~  
37    ~~terms of office as described in this subparagraph, the district~~  
38    ~~board shall not appoint public members, and public members~~  
39    ~~shall be appointed as described in paragraph (4).~~

~~(4) (A) If the district board fails to appoint public members by April 30, 2006, in compliance with paragraph (3), those public members shall be appointed as follows:~~

~~(i) One member appointed by the Governor, with the advice and consent of the Senate. This member shall be a physician with expertise in the effects of air pollution on respiratory health. This member shall serve an initial two-year term.~~

~~(ii) One member appointed by the Senate Committee on Rules. This member shall serve an initial four-year term.~~

~~(iii) One member appointed by the Speaker of the Assembly. This member shall serve an initial two-year term.~~

~~(B) After the initial term specified for each member in subparagraph (A), the term of office for each subsequent term for those members shall be four years.~~

~~(C) The members appointed pursuant to this paragraph shall be residents of the district and shall meet the requirements for candidates for public members in subparagraph (B) of paragraph (3).~~

~~(5) A member appointed pursuant to this section shall not designate an alternate for any purpose or otherwise be represented by another person in his or her capacity as a member of the district board.~~

~~(A) One public member selected by the Governor, with the advice and consent of the Senate, who has expertise in transportation or urban planning.~~

~~(B) One public member selected by the Governor, with the advice and consent of the Senate, who has expertise in the environmental effects of air pollution.~~

~~(C) One public member selected by the Speaker of the Assembly to represent the environmental justice community.~~

~~(D) One public member selected by the Senate Committee on Rules who is a physician with expertise regarding the health effects of air pollution.~~

~~(5) The terms of office for the members initially appointed pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (4) shall be as follows:~~

~~(A) For the member appointed pursuant to subparagraph (A) of paragraph (4), the term shall be two years.~~

~~(B) For the member appointed pursuant to subparagraph (B) of paragraph (4), the term shall be four years.~~

1     (C) For the member appointed pursuant to subparagraph (C)  
2 of paragraph (4), the term shall be two years.

3     (D) For the member appointed pursuant to subparagraph (D)  
4 of paragraph (4), the term shall be four years.

5     (6) After the initial term of appointment, the terms of office for  
6 the members appointed pursuant to subparagraphs (A), (B), (C),  
7 and (D) of paragraph (4) shall be four years.

8     (d) Each member shall be appointed on the basis of his or her  
9 demonstrated interest and proven ability in the field of air  
10 pollution control and their understanding of the needs of the  
11 general public in connection with air pollution problems of the  
12 San Joaquin Valley Air Basin.

13     (e) Each member shall be appointed on the basis of his or her  
14 ability to attend substantially all meetings of the district board, to  
15 discharge all duties and responsibilities of a member of the  
16 district board on a regular basis, and to participate actively in  
17 the affairs of the district. A member shall not designate an  
18 alternate for any purpose or otherwise be represented by another  
19 person in his or her capacity as a member of the district board.

20     (f) Each appointment by a board of supervisors or city council  
21 shall be considered and acted on at a duly noticed, regularly  
22 scheduled hearing of the board of supervisors or city council,  
23 which shall provide an opportunity for testimony on the  
24 qualifications of the candidates for appointment.

25     (g) All members shall be residents of the district.

26     SEC. 2. No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution because  
28 a local agency or school district has the authority to levy service  
29 charges, fees, or assessments sufficient to pay for the program or  
30 level of service mandated by this act, within the meaning of  
31 Section 17556 of the Government Code.